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(Appearing *Pro Hac Vice*)

Attorneys for Plaintiff

**UNITED STATES DISTRICT COURT
DISTRICT OF MONTANA**

NATIONAL ASSOCIATION FOR
GUN RIGHTS, INC.,

Plaintiff,

V.

JEFF MANGAN, in his official capacity as the Commissioner of Political Practices for the State of Montana; TIMOTHY FOX, in his official capacity as Attorney General for the State of Montana,

Defendants.

Case No. CV-16-0023-H-DLC-JTJ

**DECLARATION OF MATTHEW
MONFORTON IN SUPPORT OF
PLAINTIFF'S MOTION FOR FEES &
EXPENSES**

I, Matthew Monforton, declare under oath as follows:

1. I am counsel for the National Association For Gun Rights, Inc. (NAGR) in the instant matter. I have personal knowledge of the facts stated in this declaration and could testify to them as a witness at a trial or hearing.

2. I have been practicing law for 23 years. NAGR brought this action under 42 U.S.C. § 1983 in order to prevent Defendants from depriving him of his First Amendment right of political speech at a crucial moment during his legislative campaign. I represented NAGR in this action.

3. A substantial part of my practice consists of representing individuals and organizations in constitutional and civil rights litigation in various state and federal courts in California and Montana. A true and correct copy of my resume is attached to this Declaration.

4. The services I performed in this matter are accurately listed in the Billing Statement attached. These services were reasonably and necessarily performed on behalf of NAGR.

5. It is my normal practice to charge fee-paying clients for reasonable out of pocket expenses such as photocopying, travel, telephone costs, and electronic legal research fees.

6. Throughout this litigation, there were many times when I researched various lines of cases that did not prove fruitful. There were also occasions when I

ultimately discarded portions of briefs that I had drafted after determining that they did not advance my client's case or were simply confusing. There was approximately 20 hours of such time that I did not bill NAGR or include in my billing statement.

7. The timesheet attached to this Declaration accurately describes the 89.2 hours of work I performed on this case for which NAGR seeks fees.

8. It also accurately describes the following costs and expenses that were necessary to litigate this matter:

3/18/16	U.S. Dist Ct filing fee	400.00
4/4/16	Process server fees	225.00
5/3/16	Mileage to Missoula for ct hearing (420 miles x \$.55)	231.00
10/25/16	Mileage to Missoula for ct hearing (420 miles x \$.55)	231.00
2/15/17	Warrington PHV fee	255.00
Total Costs:		\$1,342.00

9. I performed an addition 9.7 hours of additional work preparing all of the documents necessary for this motion.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

DATED: January 2, 2018


Matthew Monforton
Declarant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY this 2nd day of January, 2018, that a copy of the foregoing will be delivered this day via the Court's ECF system to the following:

TIMOTHY C. FOX Montana Attorney General
J. STUART SEGREST
Assistant Attorneys General
Deputy Attorney General
215 North Sanders
P.O. Box 201401
Helena, MT 59620-1401
ssegrest@mt.gov

DATED: January 2, 2018

Respectfully submitted,

/s/ Matthew G. Monforton
Matthew G. Monforton

Attorney for Plaintiff

MATTHEW G. MONFORTON

32 Kelly Court, Bozeman, MT 59718

(406) 570-2949 • matthewmonforton@yahoo.com

EDUCATION:

UCLA SCHOOL OF LAW

Juris Doctorate, 1994

Los Angeles, CA

CLAREMONT McKENNA COLLEGE

Bachelor of Arts degree in Government, 1991

Claremont, CA

EXPERIENCE:

4/2009–Present

SOLE PRACTITIONER, Monforton Law Offices, PLLC

Bozeman, MT

Practice devoted primarily to § 1983 cases with an emphasis upon First Amendment litigation. Experience includes complex litigation in state and federal courts in California and Montana, including appointment as class counsel in case involving 540 plaintiffs. Served as ADF-allied local counsel on various matters since 2008 as well as local counsel for other matters. Argued numerous cases before the Ninth Circuit and California appellate courts. Prepared petitions for writs of certiorari for the U.S. Supreme Court. Served as part-time municipal judge between 2009 and 2011.

1/2015-4/2015

MEMBER, Montana House of Representatives

Helena, MT

Elected in November 2014 to represent Montana House District 69 for the bi-annual, four-month session of the Montana Legislature. Bills sponsored included a Personhood Amendment to the Montana Constitution and a child tax credit for families.

2/2008-4/2009

LITIGATION ASSOCIATE, Mark A. Bryan, P.C.

Bozeman, MT

Employed as a litigation associate for local firm specializing in corporate and tax law.

1/2006–1/2008

LITIGATION ASSOCIATE, Tarlow & Stonecipher

Bozeman, MT

Employed by a law firm specializing in construction law, real estate and personal injury cases. Performed extensive discovery and expert witness preparation.

6/1996-11/2005

DEPUTY DISTRICT ATTORNEY, Los Angeles County,

Los Angeles, CA

Prosecuted numerous cases in the trial, appellate and habeas corpus divisions of the District Attorney's office. Tried over 25 felony and misdemeanor cases to a jury. Served as lead appellate counsel in over 40 cases. Conducted numerous preliminary hearings, suppression hearings, arraignments and plea negotiations. Presented seminars to other deputy prosecutors.

1/1995–5/1996

LITIGATION ASSOCIATE, Satin & Russell,

Newport Beach, CA

Employed by a law firm specializing in personal injury. Engaged in all facets of discovery. Successfully arbitrated several cases.

BAR LICENSES:

California, Montana, U.S. Supreme Court, Ninth Circuit Court of Appeals

INTERESTS:

Writer for *The Resurgent*, Hiking and Camping, Karate

Fees and Expenses by Matter

Page 1

Period: 01/01/2016-12/20/2017

12/20/17

Date	Timekeeper	Transaction Type	Amount	Status	Description
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Matter 23-1		National Association For Gun Rights Federal Suit			
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01/14/16 Released	MGM	Fee: 0.70 hours Reviewed Decision issued by Commissioner Motl alleging campaign finance violations against NAGR and others			
01/15/16 Released	MGM	Fee: 0.10 hours Prepared email to NAGR regarding COPP's Decision			
01/15/16 Released	MGM	Fee: 0.20 hours Telephone conference with L. O'Dell			
01/20/16 Released	MGM	Fee: 1.60 hours Reviewed file documents from prior NAGR cases for purposes of preparing updated memorandum explaining NAGR's current legal status; documents reviewed included complaints filed by Tutvedt, Mowbray, and Welch as well as NAGR responses to COPP regarding complaints			
01/20/16 Released	MGM	Fee: 2.80 hours Prepared detailed letter and exhibits for NAGR officers and general counsel providing background information concerning COPP's Decision alleging campaign financing violations by NAGR and offering recommendations as to NAGR's legal options			
01/22/16 Released	MGM	Fee: 1.00 hours Telephone conference with D. Brown, L. O'Dell, M. Rothfeld, D. Warrington			
01/23/16 Released	MGM	Fee: 0.50 hours Telephone conference with M. Rothfeld, D. Brown, D. Warrington			

01/30/16 Released	MGM	Fee: 0.40 hours Email exchange with M. Rothfeld concerning status of case
01/30/16 Released	MGM	Fee: 0.70 hours Telephone conference with M. Rothfeld, D. Warrington & L. O'Dell
02/01/16 Released	MGM	Fee: 0.20 hours Telephone conference w/ D. Warrington
02/01/16 Released	MGM	Fee: 0.20 hours Reviewed email from D. Warrington
02/01/16 Released	MGM	Fee: 0.50 hours Telephone conference with D. Warrington
02/03/16 Released	MGM	Fee: 0.20 hours Email exchange with D. Warrington
02/03/16 Released	MGM	Fee: 1.20 hours Legal research of cases concerning imposition of political committee requirements on groups such as NAGR that engage only in electioneering speech and avoid express advocacy; cases reviewed included WRTL v. Barland and 9th Circuit's decision in Human Life v. Brumsickle
02/03/16 Released	MGM	Fee: 2.40 hours Legal research concerning cases striking down statutes compelling speech for purposes of attacking Mont. Code Ann. 13-35-225(3), which requires groups such as NAGR that desire to criticize an incumbent's voting record to include in its mailers copies of all legislative bills the group relies upon in making such criticism
02/03/16 Released	MGM	Fee: 1.10 hours Legal review of cases involving First Amendment challenges to content-based statutes in order to prepare additional arguments for challenging 13-15-225(3)
02/04/16 Released	MGM	Fee: 3.50 hours Began preparing Statement of Facts section for NAGR's brief in support of preliminary injunction motion to prevent Montana

authorities to enforce the 2015 Disclose Act, including NAGR's background and history, a summary of the pertinent provisions of the Disclose Act, and NAGR's intentions concerning future mailings in Montana

02/04/16 Released	MGM	Fee: 2.70 hours Began preparing and revising Part I of the Argument section of the brief explaining how NAGR's mailer in the 2012 Tutvedt race in SD-3 was issue advocacy and therefore not subject to Montana disclosure law as it existed in 2012
02/05/16 Released	MGM	Fee: 4.10 hours Drafted and revised Part II of the Argument section of NAGR's brief in support of its preliminary injunction motion concerning the overbreadth of Montana's 2015 Montana Disclose Act, including detailed analysis of how Montana unlawfully imposes full PAC burdens on groups such as NAGR that engage only in issue advocacy despite federal appellate courts find such extensive restrictions unnecessary for groups who limit themselves to issue advocacy
02/05/16 Released	MGM	Fee: 2.80 hours Prepared Argument section of NAGR's preliminary injunction brief concerning Montana's compelled-vote-reporting act, including its unconstitutional compelled speech component as well as the fact that it is content based and therefore subject to strict scrutiny
02/05/16 Released	MGM	Fee: 1.30 hours Prepared portion of NAGR's preliminary injunction showing that all 4 of the Supreme Court's Winter factors are satisfied by NAGR's request for a preliminary injunction motion
02/16/16 Released	MGM	Fee: 0.30 hours Telephone conference with D. Warrington
02/18/16 Released	MGM	Fee: 3.40 hours Drafted Verified Complaint for purposes of initiating NAGR's federal lawsuit, including

Statement of Facts, Jurisdictional Sections
and Causes of Action

03/16/16 Released	MGM	Fee: 0.40 hours Telephone conference with M. Rothfeld, D. Brown, D. Warrington regard status of case
03/16/16 Released	MGM	Fee: 0.20 hours Telephone conference w/ D. Warrington
03/16/16 Released	MGM	Fee: 0.80 hours Revised complaint to add count concerning request for injunction against Montana authorities from seeking penalties against NAGR for 2012 mailing in Tutvedt primary
03/17/16 Released	MGM	Fee: 0.20 hours Telephone conference w/ D. Warrington
03/17/16 Released	MGM	Fee: 0.50 hours Reviewed modifications made D. Warrington regarding complaint
03/18/16 Released	MGM	Expense 400.00 U.S. District Court filing fee
03/18/16 Released	MGM	Fee: 0.20 hours Telephone conference w/ D. Warrington
03/23/16 Released	MGM	Fee: 2.10 hours Modified NAGR's brief supporting its preliminary injunction motion to include arguments pertaining to the Tutvedt mailing in 2012
03/23/16 Released	MGM	Fee: 0.70 hours Review documents received from Commissioner's Motl's office in response to public records request submitted by NAGR in
03/28/16 Released	MGM	Fee: 1.20 hours Reviewed modifications to preliminary injunction brief made by D. Warrington; made additional changes
04/04/16 Released	MGM	Expense 225.00 Process server fees for service of complaint & summons on defendants Fox, Motl, and Gallagher

04/20/16 Released	MGM	Fee: 0.30 hours Telephone conference w/ D. Warrington
04/20/16 Released	MGM	Fee: 0.30 hours Telephone conference with D. Warrington
04/27/16 Released	MGM	Fee: 2.10 hours Reviewed response brief filed by State for purposes of preparing NAGR's reply brief (.8); reviewed declarations executed by Commissioner Motl in support of response (.4); reviewed cases relied upon by State to support its argument that NAGR's claims are not justiciable (.9)
04/28/16 Released	MGM	Fee: 2.30 hours Reviewed Supreme Court and 9th Circuit cases concerning constitutional and prudential components of ripeness in order to rebut State's contention that NAGR's request for preliminary injunctive relief is unripe
04/28/16 Released	MGM	Fee: 2.20 hours Reviewed cases involving Younger abstention and, in particular, cases showing that the court need not abstain from reviewing NAGR's claims because state judicial proceedings have not yet commenced
04/28/16 Released	MGM	Fee: 0.90 hours Reviewed additional 9th Circuit cases, such as ACLU v. Heller, showing that state imposed disclaimers that go beyond simply identifying the speaker amount to compelled speech triggering strict scrutiny
04/29/16 Released	MGM	Fee: 3.40 hours Drafted and revised portion of NAGR's reply brief refuting State's argument that NAGR's claims for injunctive relief concerning threatened prosecution over the Tutvedt mailer is unripe
04/29/16 Released	MGM	Fee: 1.30 hours Drafted portion of NAGR's reply refuting State's contention that the court is required to abstain from adjudicating NAGR's claims
04/29/16	MGM	Fee: 0.60 hours

Released		Drafted and revised portion of NAGR reply responding to State's contention that the mailers sent into the Tutvedt race constituted express advocacy
04/29/16 Released	MGM	Fee: 1.00 hours Drafted and revised portion of NAGR reply brief demonstrating that Montana statutes imposing political committee burdens on issue advocacy groups are overly burdensome
04/29/16 Released	MGM	Fee: 1.60 hours Drafted and revised portion of NAGR's reply brief showing that Montana statute requiring NAGR to include describe all of the votes of an incumbent when it criticizes his voting record is blatantly unconstitutional
05/01/16 Released	MGM	Fee: 0.20 hours Telephone conference w/ D. Brown
05/01/16 Released	MGM	Fee: 0.20 hours Prepared email for D. Warrington explaining status of case and need for declaration from him
05/02/16 Released	MGM	Fee: 0.20 hours Telephone conference w/ D. Brown
05/02/16 Released	MGM	Fee: 0.50 hours Email exchanges with NAGR members, D. Warrington, and A. Narod concerning reply brief
05/03/16 Released	MGM	Fee: 3.20 hours Driving time to Missoula for preliminary injunction hearing in U.S. District Court
05/03/16 Released	MGM	Fee: 1.00 hours Appearance and argument time in U.S. District Court on NAGR's preliminary injunction motion
05/03/16 Released	MGM	Expense 231.00 mileage expense for drive to Missoula and back for preliminary injunction hearing in U.S. District Court (420 miles roundtrip x \$.55 per mile)
05/04/16	MGM	Fee: 0.30 hours

Released		Telephone conference w/ D. Brown
05/04/16 Released	MGM	Fee: 1.20 hours Prepared letter to D. Brown and other NAGR officers providing status report and summary of court hearing on 5/4
05/23/16 Released	MGM	Fee: 0.70 hours Reviewed order from U.S. District Ct granting in part and denying in part NAGR's motion for preliminary injunction
05/24/16 Released	MGM	Fee: 0.60 hours Prepared letter for D. Brown and NAGR officers summarizing district court's order
09/13/16 Released	MGM	Fee: 0.20 hours Prepared letter for D. Brown concerning NAGR's options regarding lawsuit
09/26/16 Released	MGM	Fee: 0.20 hours Telephone conference with D. Warrington
10/17/16 Released	MGM	Fee: 0.10 hours Telephone conference with D. Warrington
10/18/16 Released	MGM	Fee: 0.50 hours Reviewed state's preliminary pretrial statement
10/18/16 Released	MGM	Fee: 0.80 hours Reviewed file documents for purposes of drafting NAGR's preliminary pretrial statement; prepared statement
10/25/16 Released	MGM	Fee: 0.70 hours Reviewed file documents for purpose of preparing for mandatory preliminary pretrial conference
10/25/16 Released	MGM	Fee: 3.00 hours Drive time to U.S. District Court in Missoula
10/25/16 Released	MGM	Expense 231.00 Mileage to U.S. District Court in Missoula and back (420 miles x .55 per mile)
10/25/16 Released	MGM	Fee: 0.50 hours Appearance at preliminary pretrial

conference

10/26/16 Released	MGM	Fee: 0.20 hours Review of scheduling order
10/26/16 Released	MGM	Fee: 0.20 hours Prepared letter to D. Brown re status of case
12/14/16 Released	MGM	Fee: 0.30 hours Telephone conference with D. Warrington re status of case
12/15/16 Released	MGM	Fee: 0.30 hours Telephone conferences with Rob and review of ODC letter to Rob and citizen's complaint concerning ads about Langton
01/10/17 Released	MGM	Fee: 1.80 hours Reviewed draft of Statement of Undisputed Facts and draft of memorandum in support of summary judgment prepared by D. Warrington; prepared response to D. Warrington containing suggested modifications
02/08/17 Released	MGM	Fee: 0.30 hours Reviewed pro hac vice motion and supporting papers; reviewed US Dist Ct local rules applicable to phv motion for admission of D. Warrington
02/14/17 Released	MGM	Fee: 0.80 hours Continued review of brief in support of motion for summary judgment for purposes of finalizing it for filing tomorrow; email message to D. Warrington regarding additional changes needed in order for case to continue having legal ripeness
02/15/17 Released	MGM	Fee: 0.40 hours Reviewed affidavit of D. Brown; reviewed final changes to brief
02/15/17 Released	MGM	Fee: 0.30 hours Prepared MSJ motion, proposed order
02/15/17 Released	MGM	Fee: 0.30 hours Reviewed electronic filing of documents for summary judgment and PHV motions

02/15/17 Released	MGM	Expense 255.00 U.S. District Court fee for pro hac vice motion to admit D Warrington as counsel
02/23/17 Released	MGM	Fee: 0.20 hours Email exchanges with D. Warrington concerning district court's order regarding Warrington's admission
03/09/17 Released	MGM	Fee: 0.80 hours Reviewed State's Statement of Disputed Facts and record citations; compared statements to facts contained in file documents
03/09/17 Released	MGM	Fee: 0.30 hours Reviewed State's Statement of Undisputed Facts filed in support of its motion for summary judgment
03/09/17 Released	MGM	Fee: 0.90 hours Reviewed State's brief in support of its motion for summary judgment and response to NAGR's motion for summary judgment for purposes of beginning to prepare reply brief
03/09/17 Released	MGM	Fee: 2.40 hours Reviewed case law relied upon by the State in its brief in support of its summary judgment motion, including Independence Institute v FEC, Human Life v. Brumsickle, Yamada v. Snipes, and Citizens United
03/14/17 Released	MGM	Fee: 2.20 hours Began preparing Statement of Disputed Facts as required by local court rules in response to the State's Statement of Undisputed Facts in support of its motion for summary judgment; reviewed file documents in order to fashion arguments refuting State's claims about the time period that electioneering regulations are in force as well as its claim concerning the "minimal" burden supposedly imposed by Montana's political committee regulations
03/17/17 Released	MGM	Fee: 2.40 hours Began drafting reply in support of NAGR's motion for summary judgment and response to State's cross-motion for summary judgment; drafted Section I of brief explaining how

NAGR's intended communications constitute issue advocacy, not express advocacy, and are therefore exempted by the First Amendment from the State's regulation

03/17/17 Released	MGM	Fee: 0.60 hours Reviewed file documents and prepared Section II of NAGR's response brief explaining that the applicable time period for the State's electioneering regulations is actually 105 days before an election, not 90 days as the State claims, thereby showing that the regulations are more burdensome than what the State argues
03/18/17 Released	MGM	Fee: 2.80 hours Reviewed file documents and prepared Section III of NAGR's response brief demonstrating that: under 7th Circuit's decision in Barland, NAGR deserves to prevail, the cases cited by the State are inapplicable, Montana's political committee burdens are more substantial than what the State claims, and that exacting scrutiny requires striking down Montana's electioneering regulations
03/21/17 Released	MGM	Fee: 0.30 hours Finalized NAGR's Statement of Disputed Facts
03/22/17 Released	MGM	Fee: 0.20 hours Telephone conference with D. Warrington concerning modifications to brief in support of NAGR's motion for summary judgment
03/22/17 Released	MGM	Fee: 0.20 hours Drafted additional portion of brief detailing burdens imposed by Montana's "incidental" political committee regulations
03/22/17 Released	MGM	Fee: 0.20 hours Reviewed changes to brief suggested by D. Warrington and P. Sorrell
03/22/17 Released	MGM	Fee: 0.20 hours Filed with court's ECF system NAGR's reply brief in support of its motion for summary judgment and response to State's cross-motion for summary judgment as well as NAGR's Statement of Disputed Facts

04/05/17	MGM	Fee: 0.90 hours
Released		Reviewed State's Reply Brief, Motl's attached declaration, and reviewed statutes and administrative rules that State claims impose only minimal burdens on corporate entities desiring to send educational materials concerning legislator views on gun rights
04/24/17	MGM	Fee: 0.50 hours
Released		Telephone conferences with D. Warrington regarding advisability of waiving oral argument on summary judgment motions and reducing costs; email to Montana AG regarding waiver of argument; prepared and filed unopposed motion to waive argument and proposed order
09/06/17	MGM	Fee: 0.70 hours
Released		Reviewed order issued by Judge Christensen granting in part and denying NAGR's motion for summary judgment, as well as file documents, for purposes of determining what appellate options NAGR has
09/15/17	MGM	Fee: 0.20 hours
Released		Telephone conference with David Warrington
Matter 23-1		Hours: 89.20

Fees by Matter
 Period: 12/01/2017-01/02/2018

fee motion

Date	Timekeeper	Transaction Type
Status		Description

Matter 23-1	National Association For Gun Rights Federal Suit
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12/20/17	MGM	Fee: 0.20 hours
Unbilled		Telephone conference w/ D. Warrington regard fee motion and notice of appeal

12/26/17	MGM	Fee: 0.30 hours
Unbilled		Reviewed bills and expenses for purposes of preparing fee motion

12/26/17	MGM	Fee: 1.80 hours
Unbilled		Detailed review of file documents for purposes of preparing fee motion

12/26/17	MGM	Fee: 2.60 hours
Unbilled		Legal research of Supreme Court and Ninth Circuit case law governing attorney fee awards under 42 U.S.C. sec 1988; carefully read several cases such as Hensley v. Eckerhart, Gonzalez v. City of Maywood, and Cabrales v. County of Los Angeles

12/27/17	MGM	Fee: 0.20 hours
Unbilled		Telephone conference with J. Metropoulos

12/27/17	MGM	Fee: 0.20 hours
Unbilled		Telephone conference with D. Warrington

12/27/17	MGM	Fee: 2.90 hours
Unbilled		Drafted brief in support of fee motion as well as declaration

01/01/18	MGM	Fee: 0.20 hours
Unbilled		Telephone conference with J. Metropoulos

01/01/18	MGM	Fee: 0.20 hours
Unbilled		Reviewed declaration prepared by J. Metropoulos

01/02/18	MGM	Fee: 0.20 hours
Unbilled		Telephone conference and email exchanges with D. Warrington

01/02/18 MGM Fee: 0.90 hours
Unbilled Made revisions and corrections to brief
and declaration in support of fee motion

Matter 23-1 Hours: 9.70